

## BOARD OF FORESTRY AND FIRE PROTECTION

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#### MINUTES BOARD OF FORESTRY AND FIRE PROTECTION July 10, 11, & 12, 2001 San Bernardino, California

##### MEMBERS PRESENT:

Stan Dixon, Acting Chair  
Mark Bosetti  
Robert Heald  
Kirk Marckwald  
Tharon O'Dell  
Paula Ross  
Gary Rynearson  
Norman Waters

##### BOARD STAFF PRESENT:

Daniel R. Sendek  
Acting Executive Officer, and  
Executive Officer, Foresters Licensing  
Donna Stadler, Executive Assistant  
Fran Henson, Board Consultant

##### DEPARTMENTAL STAFF:

Andrea Tuttle, Director  
Dean Lucke, Assistant Deputy Director  
Gerald Ahlstrom, Forest Practice Staff Chief  
Jim Mote, Regulations Coordinator

### CALL TO ORDER

Acting Chair Dixon called the July 2001 Board meeting to order.

### APPROVAL OF MINUTES

Acting Chair Dixon asked for approval of the April and June 2001 minutes.

**01-07-1** Mr. Rynearson moved to approve the minutes as amended by Member O'Dell.  
Ms. Ross seconded the motion, and all were in favor.

## **REPORT OF THE CHAIRMAN**

Acting Chair Dixon thanked Director Tuttle and the people responsible for the excellent field trip, and stated that it was very impressive. He also thanked the members of the South Region for their efforts in making the Francis H. Raymond Award dinner and presentation a success.

Acting Chair Dixon asked for a moment of silence for the tragedy in Washington State and the loss of the U.S. Forest Service fire fighters.

## **DIRECTOR'S REPORT**

Dr. Andrea Tuttle, Director of the Department Forestry and Fire Protection, reviewed the CDF budget with the Board. She said there has been no action on the budget and that the Legislature was still debating the reinstatement of the quarter cent sales tax as a source of additional funding. She reviewed the effects that the reinstatement would have on the budget currently under consideration by the Governor. The budget as it exists is favorable to the Department in most areas. However, CDF would have no authorization to pay its vendors. She then reviewed the programs affected by the proposed budget.

Director Tuttle said that the Legislature has funded the Board for a full year providing the Board readopts the Interim rules for an additional year until the development of a watershed assessment and evaluation procedure is concluded.

## **REPORT OF THE OAK MORTALITY TASK FORCE**

Mr. Mark Stanley, Chief of Resource Management, first announced that the Vegetation Management Manual was out dated and needed to be rewritten to add an operational section. He then reported that the SOD disease had been found on the Buckeye and found in Mendocino County on private property. This would require a modification of the existing Zone of Infestation (ZOI) by the Board. He then reviewed the potential funding efforts for the SOD.

Acting Chair Dixon said that since the ZOI was not formalized on the Board's agenda, any action would have to be taken under New and Unfinished Business.

Mr. Dave Driscoll, CDF Northern Region Chief, provided the Board with an update on the current fire situation in California. He noted that having four people staffing engines will be used in the near future.

Director Tuttle then briefed the Board on a research document that the Department had commissioned the University of California to prepare with regards to watershed assessment and cumulative effects. She said that the report is known as the Dunne Report. The Department will report to the Board as the discussions on watershed assessments and evaluations continue.

## **REPORT OF THE EXECUTIVE SESSION**

Acting Chair Dixon deferred the Board's Counsel.

Mr. Bill Cunningham, Deputy Attorney General and Counsel for the Board, said that the Board met in Executive Session to discuss matters of litigation and Licensing issues. He said that three matters were discussed involving litigation. The matter of Scott R. J. Feller vs. the Board of Forestry. The matter of the Campaign to Restore Jackson State Redwood Forest and Dharma Cloud Charitable Foundation Trust vs. California Department of Forestry and Fire Protection and

the Board; and the California Oak Foundation case vs. the Board of Forestry. He reported that no action was taken in any of those three matters.

Mr. Daniel Sendek, Executive Officer for Licensing, said that he presented three cases for the Board's deliberation decision. Case 278 involved a proposed stipulated agreement. He said that the Board directed him to pursue an alternative and he will report back when the matter is resolved. Cases 266 and 261 involved probationary violations. He was given direction and will report back when these matters are resolved.

### **CONTINUED DIRECTOR'S REPORT**

Director Tuttle deferred to Member Heald for his comments.

Mr. Heald encouraged the Board and the public to read the Dunne Report. He also encouraged the Board to engage itself, the public, and other boards and commissions in a very thorough discussion of the issue of risk analysis.

Mr. Rynearson suggested that this be a discussion item in either the Interim or the Watershed Committee in September. This would give the Board and the public a chance to review the document.

### **CLARIFICATION OF BOARD POLICY REGARDING STATE FOREST AS SPECIFICALLY RELATED TO AMENDMENTS AND REVISIONS**

Director Tuttle reviewed the current situation with the litigation involving the Jackson Demonstration State Forest (JDSF) and how the current Board Policy for a State Forest Management Plan was involved in that litigation.

Mr. Norm Hill, Chief Counsel for the Department of Forestry and Fire Protection, reviewed the current implications of changing the Board Policy and the potential involvement of the Policy with regard to current litigation pending against JDSF. He said that the Department is moving forward with the development of an EIR for the current management plan.

Mr. Heald commented that the current Policy stresses that the primary purpose of a state forest is to review innovative management practices, demonstration operations, experimentation, and education. He asked the Department's Counsel if the proposed Policy modification was detrimental to those objectives.

Mr. Hill explained that the current injunction on JDSF prevents the Department from implementation of the Board's Policy. The policy questions raised by the court involve Board review of Forest Management Plans.

Acting Chair Dixon suggested that the Board consider clarification of the current Policy to address the issues in the standing litigation.

Mr. Heald introduced revised draft language for the area of concern for the Board's Policy and read it into the record.

"Management Plans for Boggs Mountain, Jackson, Latour, mountain Home and Soquel Demonstration State Forest shall be prepared by the Department, with appropriate public review, for approval by the Board. The Department shall present to the Board a thorough review of each existing plan at least every five years. After each review, the board may direct the Department to continue management under the existing plan, to prepare amendments to the plan, or to prepare a new plan for public review and Board approval. The Department shall submit the requested amendments or plan to the board within one

year after each request. The Department shall continue management under existing plans with appropriate consideration for changes in law or regulation, until amendments or new plans are approved by the Board.”

Director Tuttle commented that the suggestion from Member Heald was well done and supported by the Department.

Mr. Marchwald suggested a minor editorial change and that change was agreed to by Member Heald.

Mr. Hill asked if the change in policy would place greater restriction on timber harvesting for the Department or state forests than it does for the public.

Mr. Heald said that he did not know for certain, but in general, it is normally the same.

Ms. Kathy Bailey, Sierra Club, asked if the proposal had a consideration clause in management plans. She said that management plans should not stand for a 10-year period. She then noted that Assemblywoman Strom-Martin had asked that the discussion the Board was having today be continued to a later date in a location more approximate to Mendocino County.

Mr. Daniel Sendek, Acting Executive Officer for the Board, read several letters from the public and one from Assemblywoman Strom-Martin into the record.

Mr. Richard Gienger urged the Board to continue the discussion until next month.

Mr. Mark Rentz, California Forestry Association (CFA), said that according to CEQA, anytime new information is brought forward to identify a new impact, that it must be addressed. He believes that is a key issue for the Board to consider in its amendment to State Forest Policy.

Mr. Robert Di Perna spoke in support of Ms. Bailey’s comments. He said that the last time the JSDF Plan was reviewed was in 1982.

Acting Chair Dixon asked the Department’s Counsel to respond to Ms. Bailey’s comments regarding CEQA.

Mr. Hill said that the changing of the Policy by the Board is not a CEQA project. He noted that an EIR was being prepared on the Management Plan.

Mr. Marckwald asked what the Board’s Counsel had to offer in that area.

Mr. Cunningham said that in reference to CEQA, policies are treated as exempt and not as rules. He noted that all current actions being accomplished are under the existing Management Plan. The Board would be authorizing operations to be continued under the previous timber harvesting EIR.

Mr. Marckwald said that there was a need to have change in the current Board Policy and a clearer statement of the Board’s standards.

Mr. Heald said that the policy change is appropriate. He regrets current involvement with litigation and agrees that a periodic review of Forest Management Plans is a necessity.

Mr. Hill raised the question of who was to accomplish the review of the Management Plans on a five-year cycle and what would be involved.

Mr. Ross Johnson, Deputy Director for Resource Management, said that the five-year review would require some work from the Department, but would not be onerous. There would not be a

need to hire new staff for the review and that such a review would be productive for the Department.

Mr. Rynearson said that he agreed with the comments of Members Heald and Marckwald.

Acting Chair Dixon said that this was not a reactive motion by the Board, but that it had been in committee for the past two months.

Mr. Marckwald said that his interest is a balance and clarity of the purpose of the Board with regards to public review standards.

Acting Chair Dixon expressed concern over the need for quick action and asked the Department to comment.

Mr. Hill said that the Board's action could provide for the Department to return to court and offer additional information which may change the bases for the Court's decision on the restraining order. At a minimum, the Board action should expedite court review. He noted that any delay on Board action would result in the delay of any timber operation activities in this current fiscal year and the resulting impact would be on the FRIF fund.

Mr. Marckwald asked if the Board's current Policy is not restricted, what are the consequences and how does it affect the Department's funding?

Mr. Johnson explained the effects of a delay in the Board's decision.

Director Tuttle said that the review for Board action was not linked to funding activities. The management procedures for the forests are the reason for the request for change of Board Policy. Timber harvesting has brought many practical research reports and Forests Notes and which have been published.

Mr. Rynearson said that in his discussions with landowners, they often refer to the benefits received from the knowledge gained by work through the State Forest system.

Mr. Heald commented that regardless of the timing and its appearance, the Board must meet its policy obligations.

Mr. Richard Gienger questioned the need to change the Board Policy and did not understand the action occurring at this time.

Mr. Bosetti asked if there was a sense on the potential for new information being introduced if the Board delays its action.

Mr. Gienger said that he was not aware of any new information, but that there needed to be a greater time for public review.

**01-07-2** Mr. Heald moved to make the proposed amendment to the Board Policy on Forest Management Plans. Mr. Rynearson seconded the motion, and there was a roll-call vote.

Bosetti	Yes
Marckwald	No
Heald	Yes
Rynearson	Yes
Ross	Yes
Waters	Yes
O'Dell	Yes
Dixon	Yes

The motion carried with a 7-1 vote.

Acting Chair Dixon introduced the proposed resolution by the Department with regards to timber harvesting on JDSF. There was a brief discussion.

**01-07-3** Mr. O'Dell moved to adopt the resolution with the noted changes. Mr. Waters seconded the motion.

Acting Chair Dixon asked for public comment.

Ms. Kathy Bailey, Sierra Club, provided the Board with background information on the current litigation and environmental effects that have not previously been considered.

**01-07-4** Ms. Ross moved to table the motion for a future Board meeting. Mr. Marckwald seconded the motion, and all were in favor.

### **PROFESSIONAL FORESTERS EXAMINING COMMITTEE (PFEC)**

Mr. Daniel Sendek, Executive Officer for Foresters Licensing, referred to the RPF statistics in the Board's binder. He said that the following Registered Professional Foresters have requested license withdrawal: Michael G. Garcia, RPF 1859; Gilbert H. Easter, RPF 1079; Robert K. Thompson, RPF 1189; Adolph R. Groncki, RPF 515; John N. Coburn, RPF 1425; Patrick C. Jackson, RPF 1899; Edward C. Stone, RPF 571; David M. Schantz, RPF 2255; Rod Burns, RPF 2164; Joseph D. Tomascheski, RPF 227; Oliver J. Kolkman, RPF 1793; Brian Raley, RPF 1981; Morton May, RPF 43; Scott P. Hall, RPF 2271; Haydn P. Reinecker, RPF 1353; Charles J. Brown, RPF 2137; Davis S. Dealey, RPF 75; Don C. Banghart, RPF 819; Frederick G. Henschell, RPF 1753; Ann Ahokas-Worel, RPF 2471; Donald J. Ostby, RPF 646; Douglas Webb, RPF 1827; Robert MacGregor, RPF 1135; Wade R. McDonald, RPF 2065; and John H. Sprecht, RPF 893.

**01-07-5** Mr. Heald moved to accept the withdrawal of the licenses of the RPFs listed above. Mr. Ryneerson seconded the motion, and all were in favor.

Mr. Sendek the said that the following RPFs have requested license reinstatement from withdrawal status: Richard Bailey, RPF 1973; Michael S. Hicks, RPF 1850; Donald G. Fullmer, RPF 2403; Ivars J. Steinblums, RPF 1852; and William W. Oliver, RPF 51.

**01-07-6** Mr. Heald moved to approve the reinstatements of the RPFs listed above. Mr. Ryneerson seconded the motion, and all were in favor.

Mr. Sendek then reported that RPF 319, Peter B. Bunting has requested the voluntary relinquishment of his license.

**01-07-7** Mr. O'Dell moved to approve the relinquishment of the license of RPF 319, Peter B. Bunting, as requested. Mr. Ryneerson seconded the motion, and all were in favor.

Mr. Sendek then noted the passing of Norman J. Dal Parto, RPF 1556; Robert G. Lancaster, RPF 468; and Harold D. Salladay, RPF 777.

Mr. Sendek suggested that due to time constraints, the demographics in the Board's binder be continued until next month. He then asked the Board to approve the following applicants who successfully passed the examination administered on April 20, 1001, as Registered Professional Foresters: Christopher W. Chase, RPF 2710; Brian D. Christensen, RPF 2711;

Jason p. Schallon, RPF 2712; John D. Mills, RPF 2713; Erik J. Jensen, RPF 2714; John T. Lynott, RPF 2715; John P. Martinez, Jr., RPF 2716; Andrew Hill, RPF 2717; Kenneth Scott, RPF 2718; Gregory S. Thompson, RPF 2719; Nicholas Whittlesey, Jr., RPF 2720; Andrian W. Miller, RPF 2721; and Nicholas E. Clinton, RPF 2722.

**01-07-8** Mr. Rynearson moved to approve those listed above as Registered Professional Foresters. Mr. Heald seconded the motion, and all were in favor.

Acting Chair Dixon offered his apologies that there was not enough time to get to some items on the Board's agenda and that they would have to be continued in August.

## **REPORT OF THE INTERIM COMMITTEE**

Mr. Heald, Chair of the Interim Committee, said that following a discussion with the State Water Resources Control Board representative to modify Title 14, of the California Code of Regulations §1104.1, the Committee recommended that Board staff prepare a 45-Day Notice for public comment.

**01-07-9** Mr. Marckwald moved to direct staff to prepare and send out a 45-Day Notice on §1104.1 of the California Code of Regulations regarding amending regulations affecting Conversion Exemptions. Mr. Heald seconded the motion, and all were in favor.

Mr. Heald said that the appeals process for Civil Penalties was discussed. Staff was directed to confer with Counsel to clarify a couple of points and issue a 45-Day Notice.

**01-07-10** Mr. Heald then moved to issue a 45-Day Notice on the implementation of the Appeals for Civil Penalties. Mr. Marckwald seconded the motion, and all were in favor.

Mr. Heald said that under New Business, there was a brief discussion with the Department of Fish and Game representative regarding the Jackson Demonstration State Forest.

## **AD HOC WATERSHED COMMITTEE**

Mr. Rynearson, Chair of the *Ad Hoc* Watershed Committee, said that the Committee had a brief presentation on WEMA from the Department and that the reports would be finalized for next month.

Mr. Rynearson said that there was a discussion on the IWMA package presented by the California Forestry Association (CFA) and the Committee recommended putting the IWMA package out for 45-Day Notice.

Mr. Heald said that CFA requested that the package be continued and that they would revise the language for next month and would put the revised language on its website.

Mr. Rynearson then requested that the IWMA go on the agenda for next month.

Mr. Rynearson said that the Committee had completed its work on a proposal for regulatory amendments to address the rule on Roads and Watershed Protection. The Committee recommended that this package be put out for 45-Day Notice.

**01-07-11** Mr. Rynearson moved to put the Roads and Watershed Protection package out for 45-Day Notice.

Mr. Mark Rentz, California Forestry Association (CFA), said that CFA believes it important that before the Roads package goes out for 45-Day Notice, that it have further review. He said that it would behoove the Board to request that a review be completed before it goes out to notice. He voiced his concerns relative to conflicting and redundant regulations. He then suggested that the Board consider tabling the motion on the 45-Day Notice.

Mr. Marckwald seconded the motion, and a roll-call vote was taken.

Bosetti	No
Marckwald	Yes
Heald	Yes
Rynearson	Yes
Ross	Yes
Waters	No
O'Dell	Yes
Dixon	Yes

The motion carried with a 6-2 vote.

Mr. Rynearson announced that during the August *Ad Hoc* Committee meeting, the CDF FRAP unit would provide a presentation on the WEMA package. He said that the North Coast Watershed Assessment report would also be provided by FRAP as an update.

#### **HEARING TO CONSIDER AMENDMENT OF SECTION 1038 OF TITLE 14 OF THE CALIFORNIA CODE OF REGULATIONS ADDRESSING TIMBER HARVESTING PLAN EXEMPTIONS**

Acting Chair Dixon opened the hearing.

Mr. Jim Mote, Regulations Coordinator, reviewed the background for the Board.

Mr. Richard Gienger suggested including monitoring language and that the hearing be continued until next month.

**01-07-12** Mr. Heald moved to close the public hearing. Mr. Rynearson seconded the motion, and all were in favor.

**01-07-13** Mr. Heald moved to issue a 15-Day Notice with the minor corrections suggested by the Department. Mr. Rynearson seconded the motion, and a roll-call vote was taken.

Bosetti	Yes
Marckwald	Yes
Heald	Yes
Rynearson	Yes
Ross	Yes
Waters	Yes
O'Dell	Yes
Dixon	Yes

The motion carried by unanimous vote.



## **PUBLIC FORUM**

Mr. Richard Gienger referred to the current debate between the Department and the North Coast Regional Water Control Board regarding the need for monitoring on specific THPs. He said that addressing monitoring was overdue, but believes that it should be discussion on a much larger level. He said that there was a legislative report required of the Board on Non-Industrial Timber Management Plans with regards to the success and the impacts of monitoring and asked if that report had been produced. He then thanked the Board for its continued efforts to addressing the question of cumulative effects.

## **ADJOURNMENT**

Acting Chair Dixon said that the July 2001 meeting of the Board was adjourned.

Respectfully submitted,

ATTEST:

Daniel R. Sendek  
Acting Executive Officer

Stan Dixon  
Acting Chair

Copies of the attendance sheets can be obtained from the Board Office.